

COMMITTEE ON FOREIGN RELATIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 5, 2009, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate, to conduct a hearing entitled "Employment Non-Discrimination Act: Ensuring Opportunity for All Americans" on November 5, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m. to conduct a hearing entitled "Business Formation and Financial Crime: Finding a Legislative Solution."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 5, 2009, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on November 5, 2009 at 10 a.m. to conduct a hearing on VA and Indian Health Service Cooperation. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on November 5, 2009, at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIME AND DRUGS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate on November 5, 2009, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "The First Line of Defense: Reducing Recidivism at the Local Level."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate to conduct a hearing on November 5, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Ms. MIKULSKI. Mr. President, I ask unanimous consent, on behalf of Senator DURBIN, that Richard Burkard, a detailee from the Financial Services and General Government Appropriations Subcommittee, be granted the privilege of the floor during the consideration of the Commerce-Justice-Science Appropriations Act and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL EXECUTIVE BOARD AUTHORIZATION ACT OF 2009

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 164, S. 806.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 806) to provide for the establishment and administration and funding of Federal Executive Boards, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Executive Board Authorization Act of 2009".

SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) *IN GENERAL.*—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

"§ 1106. Federal Executive Boards

"(a) *PURPOSES.*—The purposes of this section are to—

"(1) strengthen the coordination of Government activities;

"(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

"(3) facilitate communication and collaboration on Federal activities outside the Washington, D.C. metropolitan area; and

"(4) provide stable funding for Federal Executive Boards.

"(b) *DEFINITIONS.*—In this section:

"(1) *AGENCY.*—The term 'agency'—

"(A) means an Executive agency as defined under section 105; and

"(B) shall not include the Government Accountability Office.

"(2) *DIRECTOR.*—The term 'Director' means the Director of the Office of Personnel Management.

"(3) *FEDERAL EXECUTIVE BOARD.*—The term 'Federal Executive Board' means an interagency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high con-

centration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

"(c) *ESTABLISHMENT.*—

"(1) *IN GENERAL.*—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

"(2) *MEMBERSHIP.*—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

"(3) *LOCATION OF FEDERAL EXECUTIVE BOARDS.*—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

"(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

"(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

"(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

"(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

"(d) *ADMINISTRATION AND OVERSIGHT.*—

"(1) *IN GENERAL.*—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

"(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

"(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

"(C) establishing communications policies for the dissemination of information to agencies;

"(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

"(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

"(F) administering Federal Executive Board funding through the fund established in subsection (f).

"(2) *STAFFING.*—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

"(e) *GOVERNANCE AND ACTIVITIES.*—Each Federal Executive Board shall—

"(1) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

"(2) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

"(3) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

"(4) provide a forum for the exchange of information relating to programs and management methods and problems—

"(A) between the national headquarters of agencies and the field; and

"(B) among field elements in the geographic area;

"(5) develop local coordinated approaches to the development and operation of programs that have common characteristics;

“(6) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

“(7) develop relationships with State and local governments and nongovernmental organizations to help in coordinating agency outreach; and

“(8) take other actions as agreed to by the Federal Executive Board and the Director.

“(f) FUNDING.—

“(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

“(A) including basic staffing and operating expenses; and

“(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

“(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

“(3) CONTRIBUTIONS.—

“(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

“(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

“(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in excess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

“(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

“(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

“(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.”

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of

title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

“1106. Federal Executive Boards.”.

EMERGENCY PREPAREDNESS

Mr. AKAKA. Mr. President, Senator VOINOVICH and I have offered a floor amendment to S. 806, the Federal Executive Board Authorization Act of 2009, to clearly authorize and provide guidance for the existing work of Federal Executive Boards, FEBs, in emergency preparedness and continuity of operations, COOP.

Mr. VOINOVICH. Mr. President, I want to thank Senator AKAKA for leading this amendment to recognize FEBs' role in preparing the Federal workforce for emergencies. FEBs participate in a number of activities in this regard, including working with the Department of Health and Human Services to brief the Federal workforce on points of distribution that can be set up to dispense medication during health emergencies and working with the Office of Personnel Management, OPM, and the Chief Human Officers Council to distribute information on human resources flexibilities available during snow storms and other emergencies. Our floor amendment clarifies that these activities can and should continue.

Mr. AKAKA. Mr. President, as Senator VOINOVICH has mentioned, FEBs already participate in a range of emergency preparedness efforts. These include working with OPM and individual agencies to develop COOP plans and taking other actions to prepare the Federal workforce for and protect them from public health dangers, inclement weather, and other emergencies. In 2004, the Government Accountability Office, GAO, released a report on COOP planning in the federal sector, which recognized that FEBs are uniquely positioned to coordinate emergency preparedness efforts among the Federal workforce, given their responsibility for improving coordination among federal activities outside of Washington, D.C. Following GAO's recommendation, OPM and the Federal Emergency Management Agency began more closely coordinating their efforts to improve guidance to federal agencies on emergency preparation and COOP.

Our amendment recognizes and provides guidance for such coordination. Specifically, our amendment requires FEBs to facilitate communication and collaboration on emergency preparedness and COOP activities for the Federal workforce in areas where FEBs exist. Our amendment also requires each FEB to develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that FEB, and requires that the communication, collaboration, and training to prepare the Federal workforce for emergencies and COOP be defined through memoranda of understanding, MOU, between the Director of OPM and the headquarters of appropriate agencies when necessary.

We do not intend for MOUs to be created for every activity that FEBs participate in, nor with every agency participating in FEBs. As the substitute amendment states, MOUs should be created where appropriate. OPM may need MOUs with those agencies with which FEBs coordinate most actively because they play a substantial role in preparing the Federal workforce for emergencies and COOP.

Mr. VOINOVICH. Mr. President, I concur with my colleague. Our floor amendment requires FEBs to coordinate with appropriate agencies for preparedness, response, and COOP. We do not mean that OPM must enter into a memorandum of understanding with every agency that participates in an FEB or every agency that is affected by an FEB. We believe OPM should have the discretion and flexibility to determine which agencies are the “appropriate agencies” to coordinate with in any particular situation as well as the discretion to decide when that coordination needs to be defined in memoranda of understanding or other formal agreement.

Mr. AKAKA. Mr. President, I thank my good friend and colleague from Ohio for entering into this colloquy. Recognizing FEBs' role in emergency preparedness operations is important to supporting their efforts to prepare our Federal workforce. Again, I want to say mahalo to Senator VOINOVICH for his leadership on this important legislation.

Mr. CASEY. I ask unanimous consent the committee substitute amendment be withdrawn; that an Akaka-Voinovich substitute amendment be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2736) was agreed to, as follows:

AMENDMENT NO. 2736

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Executive Board Authorization Act of 2009”.

SEC. 2. FEDERAL EXECUTIVE BOARDS.

(a) IN GENERAL.—Chapter 11 of title 5, United States Code, is amended by adding at the end the following:

“§ 1106. Federal Executive Boards

“(a) PURPOSES.—The purposes of this section are to—

“(1) strengthen the coordination of Government activities;

“(2) facilitate interagency collaboration to improve the efficiency and effectiveness of Federal programs;

“(3) facilitate communication and collaboration on Federal emergency preparedness and continuity of operations for the Federal workforce in applicable geographic areas; and

“(4) provide stable funding for Federal Executive Boards.

“(b) DEFINITIONS.—In this section:

“(1) AGENCY.—The term ‘agency’—

“(A) means an Executive agency as defined under section 105; and

“(B) shall not include the Government Accountability Office.

“(2) DIRECTOR.—The term ‘Director’ means the Director of the Office of Personnel Management.

“(3) FEDERAL EXECUTIVE BOARD.—The term ‘Federal Executive Board’ means an inter-agency entity established by the Director, in consultation with the headquarters of appropriate agencies, in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area to strengthen the management and administration of agency activities and coordination among local Federal officers to implement national initiatives in that geographic area.

“(c) ESTABLISHMENT.—

“(1) IN GENERAL.—The Director shall establish Federal Executive Boards in geographic areas outside the Washington, D.C. metropolitan area. Before establishing Federal Executive Boards that are not in existence on the date of enactment of this section, the Director shall consult with the headquarters of appropriate agencies to determine the number and location of the Federal Executive Boards.

“(2) MEMBERSHIP.—Each Federal Executive Board for a geographic area shall consist of an appropriate senior officer for each agency in that geographic area. The appropriate senior officer may designate, by title of office, an alternate representative who shall attend meetings and otherwise represent the agency on the Federal Executive Board in the absence of the appropriate senior officer. An alternate representative shall be a senior officer in the agency.

“(3) LOCATION OF FEDERAL EXECUTIVE BOARDS.—In determining the location for the establishment of Federal Executive Boards, the Director shall consider—

“(A) whether a Federal Executive Board exists in a geographic area on the date of enactment of this section;

“(B) whether a geographic area has a strong, viable, and active Federal Executive Association;

“(C) whether the Federal Executive Association of a geographic area petitions the Director to become a Federal Executive Board; and

“(D) such other factors as the Director and the headquarters of appropriate agencies consider relevant.

“(d) ADMINISTRATION AND OVERSIGHT.—

“(1) IN GENERAL.—The Director shall provide for the administration and oversight of Federal Executive Boards, including—

“(A) establishing staffing policies in consultation with the headquarters of agencies participating in Federal Executive Boards;

“(B) designating an agency to staff each Federal Executive Board based on recommendations from that Federal Executive Board;

“(C) establishing communications policies for the dissemination of information to agencies;

“(D) in consultation with the headquarters of appropriate agencies, establishing performance standards for the Federal Executive Board staff;

“(E) developing accountability initiatives to ensure Federal Executive Boards are meeting performance standards; and

“(F) administering Federal Executive Board funding through the fund established in subsection (f).

“(2) STAFFING.—In making designations under paragraph (1)(B), the Director shall give preference to agencies staffing Federal Executive Boards.

“(e) GOVERNANCE AND ACTIVITIES.—

“(1) IN GENERAL.—Each Federal Executive Board shall—

“(A) subject to the approval of the Director, adopt by-laws or other rules for the internal governance of the Federal Executive Board;

“(B) elect a Chairperson from among the members of the Federal Executive Board, who shall serve for a set term;

“(C) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area;

“(D) provide a forum for the exchange of information relating to programs and management methods and problems—

“(i) between the national headquarters of agencies and the field; and

“(ii) among field elements in the geographic area;

“(E) develop local coordinated approaches to the development and operation of programs that have common characteristics;

“(F) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support;

“(G) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that Board;

“(H) in coordination with appropriate agencies and consistent with any relevant memoranda of understanding between the Office of Personnel Management and such agencies, facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations; and

“(I) take other actions as agreed to by the Federal Executive Board and the Director.

“(2) COORDINATION OF CERTAIN ACTIVITIES.—The facilitation of communication, collaboration, and training described under paragraph (1)(H) shall, when appropriate, be coordinated and defined through memoranda of understanding entered into between the Director and headquarters of appropriate agencies.

“(f) FUNDING.—

“(1) ESTABLISHMENT OF FUND.—The Director shall establish a fund within the Office of Personnel Management for financing essential Federal Executive Board functions—

“(A) including basic staffing and operating expenses; and

“(B) excluding the costs of the Office of Personnel Management relating to administrative and oversight activities conducted under subsection (d).

“(2) DEPOSITS.—There shall be deposited in the fund established under paragraph (1) contributions from the headquarters of each agency participating in Federal Executive Boards, in an amount determined by a formula established by the Director, in consultation with the headquarters of such agencies and the Office of Management and Budget.

“(3) CONTRIBUTIONS.—

“(A) FORMULA.—The formula for contributions established by the Director shall consider the number of employees in each agency in all geographic areas served by Federal Executive Boards. The contribution of the headquarters of each agency to the fund shall be recalculated at least every 2 years.

“(B) IN-KIND CONTRIBUTIONS.—At the sole discretion of the Director, the headquarters of an agency may provide in-kind contributions instead of providing monetary contributions to the fund.

“(4) USE OF EXCESS AMOUNTS.—Any unobligated and unexpended balances in the fund which the Director determines to be in ex-

cess of amounts needed for essential Federal Executive Board functions shall be allocated by the Director, in consultation with the headquarters of agencies participating in Federal Executive Boards, among the Federal Executive Boards for the activities under subsection (e) and other priorities, such as conducting training.

“(5) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Office of Personnel Management shall pay for costs relating to administrative and oversight activities conducted under subsection (d) from appropriations made available to the Office of Personnel Management.

“(g) REPORTS.—The Director shall submit annual reports to Congress and agencies on Federal Executive Board program outcomes and budget matters.

“(h) REGULATIONS.—The Director shall prescribe regulations necessary to carry out this section.”.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives that includes—

(1) a description of essential Federal Executive Board functions;

(2) details of basic staffing requirements for each Federal Executive Board;

(3) estimates of basic staffing and operating expenses for each Federal Executive Board; and

(4) a comparison of basic staffing and operating expenses for Federal Executive Boards operating before the date of enactment of this Act and such expenses for Federal Executive Boards after the implementation of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 11 of title 5, United States Code, is amended by inserting after the item relating to section 1105 the following:

“1106. Federal Executive Boards.”.

The bill (S. 806), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

TERMS OF SERVICE IN THE OFFICE OF COMPLIANCE

Mr. CASEY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 197, S. 1860.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows.

A bill (S. 1860) to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms.

There being no objection, the Senate proceeded to consider the bill.

Mr. CASEY. Mr. President, I ask unanimous consent the bill be read a third time, and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1860) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows: